



**METROPOLITAN
TRANSPORTATION
COMMISSION**

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Memorandum

DATE: September 23, 2013

TO: Commission

FR: Executive Director

W.I: 1229

RE: Proposed MTC Response During Possible BART Strike in October

At the September 13th Operations Committee meeting, staff provided an update on costs incurred by MTC and its partners for the July BART strike, preparations for a potential October strike and recommendations for future initiatives to improve emergency response tools. At the Committee meeting, BART management confirmed that BART would provide charter service in the event of an October strike but did not share specific information. The Committee expressed concern about the limited scale of BART's charter bus service during the last strike and asked about MTC's ability to procure charter bus service directly. The Committee then directed staff to further investigate procurement of private shuttle service and to report back at the September Commission meeting.

Lessons Learned and October BART Strike Plans

On the first day of the July strike, staff estimates that slightly more than 50% of the expected 56,000 BART Transbay riders did not make their morning trip. As summarized below, those who did cross the bay did so by carpooling, taking another mode of transit (bus or ferry), driving alone, or taking the BART shuttle.

BART Morning Transbay Commute (July 1, 2013)

Number of BART riders who stayed home/cancelled trips	29,200	52%
Number of BART riders crossed the bay	26,800	48%
Additional carpoolers (persons)	12,000	21%
Additional ferry riders	7,000	13%
Additional East Bay bus riders	3,600	6%
Additional drivers (non-carpoolers, persons)	2,600	5%
Additional BART shuttle riders	1,600	3%
Total Estimated Morning Transbay Commuters *	56,000	100%

*Adjusted for the July holiday week

Since vehicular traffic volumes, average freeway delay and BART ridership are typically higher in October compared to July, we are expecting longer commutes, should another strike occur. To mitigate this, Caltrans and CHP are preparing to implement more aggressive carpool strategies. MTC staff also is assessing options to improve supplemental transit service plans. The region's response to the July BART strike and additional measures planned for a potential October strike are summarized below.

	Response to July Strike	Additional Plans for October Strike
High Occupancy Vehicles-HOVs (Carpoolers)	Caltrans extended the hours of operation for carpool lanes along I-80 between the Carquinez and San Francisco/Oakland Bay Bridges; designated the West Grand Avenue on-ramp to the Bay Bridge for exclusive use by HOV (3+), trucks and bus access; and CHP increased enforcement of the HOV lanes. The rideshare program distributed commuter information to employers and operated extended customer service hours.	In addition to the extended HOV hours of operation on I-80 and the exclusive bus/HOV/truck use of West Grand Avenue, Caltrans also will extend the HOV access lane on the I-880 approach to the Bay Bridge. They are considering operating a temporary HOV lane along SR-24, and extending HOV hours of operations on I-880 and I-680. MTC will support these efforts, through procurement of signs, cameras, traffic monitoring equipment and distribution of carpool incentives.
Ferry Service	The Water Emergency Transit Authority (WETA), with assistance from Golden Gate Transit, added six additional ferries and ramped up the frequency of trips.	Golden Gate Ferry will provide WETA one additional vessel. MTC will provide portable Clipper readers to allow use of another pier in San Francisco and deploy ambassadors to assist with wayfinding at key hubs.
East Bay Transit Operators	Transit operators provided normal service; however AC Transit shifted articulated buses to the transbay routes to increase overall capacity.	There are no anticipated additional service changes. Final service plans will be confirmed during the September 27 th regional coordination call.
Single Occupant Vehicles-SOVs (Additional Drivers)	511 staff developed a special web page at alert.511.org detailing supplemental service maps, casual carpool sites, and park & ride information. The Alert page experienced a 900% increase in page views. Additionally, FSP operated extended hours of service.	FSP will run extended service hours similar to the July schedule. Caltrans is considering lifting truck restrictions during commute periods along I-580 in an attempt to lessen congestion on I-880.
BART Shuttle Service	BART chartered 60-78 private shuttle buses that operated from five outlying stations that linked to West Oakland, then consolidated and transported commuters to San Francisco.	BART will increase its shuttle service to 200 buses (subject to availability of vehicles) and may add up to four additional stations. BART may also operate limited trains through the transbay tube, pending approval of its board.

Procurement of Private Charter Bus Service

As noted in the table on the previous page, BART initiated shuttle service with 60 buses and by the last day provided 78 buses in response to the strike. In the event of an October strike, BART management is committed to providing 200 buses—a substantial increase to the shuttle service provided in July. BART management also is considering use of a skeletal staff to operate partial train service. However, operating partial train service requires board approval of the BART board of directors.

With respect to increased shuttle service, BART is asking for MTC to help defray the cost of cancellation and/or termination fees. While each transportation vendor has a different policy, the estimated total fee for 200 buses will be \$900,000. Whether a strike is called or not, BART will incur either a cancellation or termination fee once it executes charter service contract(s).

Alternatively, staff has completed due diligence on the possibility of MTC directly procuring charter bus service (see Attachment A). Under MTC's transit coordination responsibilities as defined by State law, staff believes MTC has the authority to directly charter shuttle buses. In light of BART's plan to increase shuttle service and possibly operate limited train service, as well as its long experience as a public transit provider, we are recommending that MTC support BART's shuttle service rather than directly contract for a parallel shuttle service.

Funding

At its June meeting, the Commission approved reimbursement of special services provided by:

- Transit agencies from the balance of BART's FY 2013-14 STA revenue-based funds (\$17.8 million out of \$18.6 million remaining) and up to \$1.2 million in uncommitted FY 2013-14 RM2 operating funds (\$1.1 million remaining.) There is ample, remaining funds to cover costs for a possible October strike.
- Caltrans, and CHP from the Disaster Preparedness funds line item in the FY 2013-14 MTC budget. There is approximately \$30,000 remaining. In the event that additional funds are needed, we recommend executing work under the Executive Director's contract authority.

Staff proposes to set-aside an additional \$1.5 million in RM2 operating funds (total of up to \$2.7 million including the Commission's June 2013 action) to cover termination and/or cancellation fees as well as augmented transit services during an October strike. The RM2 operating funds are available because not all RM2 services are fully subscribed in FY2013-14 and staff had previously limited escalation to ensure that funds would be available as new services are brought on-line.

Recommendation

Staff recommends that the Commission approve the additional set aside of \$1.5 million in RM2 operating funds for charter bus service cancellation and/or termination costs and augmented transit service in preparation for an October BART strike. The strike, if it happens, will not occur sooner than Friday October 11. Staff will provide an additional update at the October 9th BATA Oversight Committee meeting.



Steve Heminger

ATTACHMENT A
Key Issues regarding MTC Procuring Private Charter Bus Service

CPUC Regulation	Is it permissible for MTC to directly contract for private shuttle service under CA PUC regulations? The Public Utilities Code (PUC) describes two classifications of bus carriers that are required to obtain authority from the CPUC: Passenger Stage Corporations (PSCs) and Charter-Party Carriers (CPCs). MTC is not a PSC under PUC Sec. 1031, and is exempt from obtaining authority as a CPC under PUC Sec. 5360 if the charter companies it hires have obtained authority as PSCs.	Yes. Most contracted private shuttle operators hold CPUC licenses. MTC would not need to maintain a separate license.
MTC Statutory Authority	Is it within MTC's statutory authority to operate a transit service?	Most likely, Yes. Although never tested, a reasonable interpretation is that MTC's broad statutory authority for transit coordination can be interpreted to allow for MTC to operate transit service under these exigent circumstances.
FTA Requirements	Does the FTA charter bus rule permit MTC to procure charter bus service? FTA's charter bus rule provides protections for private charter bus providers from competition by publicly-funded transit operators.	Yes. If MTC were to contract only with private shuttle operators, the protections of private charter carriers in the charter service rule would not apply.
	Does the FTA ADA rule apply for charter bus service? The ADA rule states if public transit service is provided, equivalent service must be available for riders with disabilities. ADA regulations set standards for transit vehicle accessibility.	Yes. Contracted shuttle operators must provide ADA-compliant buses. BART's paratransit provider is not involved in the strike and would continue to provide service to those passengers.
Funding Eligibility		
Funding Source	Can MTC receive BART's revenue-based State Transit Assistance (STA) funds to pay for charter bus service? Typically agencies are local transportation fund Article 4 claimants in accordance with PUC § 99214.5. MTC is not such a local agency.	Yes, with the participation of an eligible claimant. While MTC is not eligible to receive a direct allocation of STA revenue-based funds, MTC could sign a funding or other type of agreement with BART or another transit agency to pass through the funds.

	Can MTC use population-based STA funds to pay for charter bus service?	Most likely, Yes. Per PUC § 99313.3, MTC may allocate STA population-based funds to itself to achieve regional transit coordination objectives. In the case of a BART strike, MTC's procurement and operation of charter service to fill the gap in regional transportation service may fall within such objectives.
Contracted Provisions		
Procurement of charter service	If MTC were to sign a contract with a charter bus operator, could we subsequently assign it to BART or another operator?	Unknown. It is likely that we could negotiate that term with any company with whom we were negotiating, but whether it could be assigned to a transit operator would depend on their contract procedures.
	Can we avoid cancellation fees in the event that a strike was averted at the very last minute?	No. Most charter companies require a 48 hour notice of cancellation. The cancellation fee for 200 buses would be approximately \$900,000.
	Since we would not know how long a strike might last, is there a way to have a flexible period of performance to easily terminate the contract, once the strike has concluded?	No. In many cases, charter companies cannot easily offer their services to another client without first transferring the fleet to a new location, there is a transition time and demobilization/mobilization costs. The estimated cancellation fee, once service begins and without a known end date, is \$360,000-\$1,500,000.